United Nations S/2014/72

Security Council

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Letter dated 30 January 2014 from the President of the Security Council addressed to the Secretary-General

I have the honour to inform you that the members of the Security Council have agreed to send a mission to Mali from 31 January to 3 February 2014. The mission will be led by Ambassador Gérard Araud of France and Minister Counsellor Banté Mangaral of Chad. The members of the Council have agreed on the terms of reference of the mission, which are annexed hereto.

The composition of the mission is as follows:

Second Secretary Marcos Stancanelli (Argentina)

Ambassador Gary Francis Quinlan (Australia)

Minister Counsellor Banté Mangaral (Chad)

Counsellor Hugo Ignacio Llanos Mardones (Chile)

Ambassador Gérard Araud (France)

Counsellor Shen Bo (China)

Minister Mahmoud Hmoud (Jordan)

Ambassador Raimonda Murmokaitė (Lithuania)

Ambassador Sylvie Lucas (Luxembourg)

Ambassador Usman Sarki (Nigeria)

Ambassador Oh Joon (Republic of Korea)

Minister Petr Iliichev (Russian Federation)

Ambassador Eugène-Richard Gasana (Rwanda)

Ambassador Peter Wilson (United Kingdom of Great Britain and Northern Ireland)

Ambassador Samantha Power (United States of America)

I should be grateful if you could have the present letter and its annex circulated as a document of the Security Council.

(*Signed*) Zeid Ra'ad Zeid **Al-Hussein**
President of the Security Council

14-22295 (E) 030214

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Annex

Security Council mission to Mali: terms of reference

1. To welcome the full restoration of democratic governance and constitutional order in Mali, following the successful conduct, with the support of the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA), of peaceful and transparent presidential and legislative elections in 2013; to consult with the newly-appointed and elected authorities.

2. To welcome the initial efforts of the Government of Mali to launch a series of national consultative events on the situation in the north of Mali and to encourage further steps towards consolidating stability, advancing national reconciliation, fostering social cohesion and addressing the underlying causes of recurrent crises which have affected Mali; to assess progress on conflict mitigation and prevention activities at the national and local levels, including through local partners, and the national dialogue and reconciliation process, including through the participation of civil society.

3. To reiterate the urgent call of the Security Council for an inclusive and credible negotiation process open to all communities of the north of Mali, with the goal of securing a durable political resolution to the crisis and long-term peace and stability throughout the country, respecting the sovereignty, unity and territorial integrity of the Malian State, as called for in the Ouagadougou Preliminary Agreement of 18 June 2013.

4. To underscore the call of the Security Council for all the signatories of the Preliminary Agreement and those armed groups in the north of Mali that have cut off all ties with terrorist organizations and committed unconditionally to the Agreement to swiftly and fully implement its provisions, including the cantonment of armed groups, the progressive re-establishment of State administration throughout the country and the launching of inclusive and credible peace talks.

5. To reiterate the full support of the Security Council for the facilitation of an inclusive process through the good offices of the Special Representative of the Secretary-General for Mali, in close coordination with the international community, including the African Union, the Economic Community of West African States and the European Union in accordance with paragraph 4 of Council resolution 2100 (2013), towards the restoration of peace and security throughout the national territory of Mali, in the context of a comprehensive agreement ending the crisis.

6. To reiterate the call of the Security Council for all relevant Malian parties to agree without any delay on active measures to further the cantonment of armed groups as an essential step leading to an effective disarmament, demobilization and reintegration process, in the context of a comprehensive peace settlement; to assess how MINUSMA can further support the disarmament, demobilization and reintegration process.

7. To reaffirm the support of the Security Council to MINUSMA and to receive a briefing on the implementation of resolution 2100 (2013), in particular the operational deployment of MINUSMA to stabilize key population centres, especially in the north of Mali, and to support the re-establishment of State authority throughout the country and the promotion of the rule of law and protection of human rights.

8. To reiterate the concern of the Security Council about the volatile security situation and to receive a briefing on the security situation, particularly in the north of Mali, and the threat posed to regional stability by terrorist groups; to get updates on the implementation of the MINUSMA mandate, in support of the Government of Mali, of protecting civilians and stabilizing the key population centres, especially in the north of Mali, and, in this context, deterring threats and taking active steps to prevent the return of armed elements to those areas, and of contributing to the creation of a secure environment for the safe, civilian-led delivery of humanitarian assistance, in accordance with the United Nations guiding principles of emergency humanitarian assistance; to receive updates on the cooperation of all parties with MINUSMA, with a view to ensuring the Mission's safety and security; to receive a briefing on the implementation of the mandate of the French forces to support MINUSMA when under imminent and serious threat.

9. To reiterate the call of the Security Council for maintaining Malian civilian control and oversight of the Malian Defense and Security Forces as a key element of the overall reform of the security sector and, in this regard, to encourage the Government of Mali to continue to make progress and to assess the contribution of MINUSMA and other international donors, including the European Union through the Common European Security and Defence Policy and the European Union training mission in Mali.

10. To emphasize the continuing concerns of the Security Council about the protection of civilians, the importance of the fight against impunity and the need to address the issue of sexual violence and strengthen child protection; to advocate respect for human rights and international humanitarian law, to encourage the Government of Mali to ensure that those responsible for serious violations and abuses of human rights are swiftly brought to justice and to continue to cooperate with the International Criminal Court.

11. To emphasize that the perpetrators of sexual violence must be held accountable and to stress the need to ensure the full, equal and effective participation of women at an early stage of the stabilization phase, including in the security sector reform and disarmament, demobilization and reintegration processes, as well as in the national political dialogue and electoral processes, bearing in mind Security Council resolution 1325 (2000); to further emphasize that perpetrators of violations and abuses against children must be held accountable and to ensure that specific attention is given to the protection of children in security sector reform and disarmament, demobilization and reintegration processes.

12. To underscore the need for the Government of Mali to continue to address the humanitarian challenges, including the food crisis, and to achieve lasting solutions for refugees and internally displaced persons, including by creating conditions conducive to their voluntary, safe, dignified and sustainable return.

13. To reiterate the call of the Security Council for all relevant United Nations agencies and the international community to strengthen their support for the efforts of the Government to provide assistance to the affected populations, particularly women and children, and to support the provision of basic services to the population, in particular in the north of Mali; to encourage the international community to coordinate actions for addressing the immediate and long-term needs of the population of Mali, including in the context of the high-level international donors conference held in Brussels on 5 February to support the development of

Mali, in consultation with the Government; to reiterate the call of the Council for the international community to address the gap in funding of the consolidated humanitarian appeal.

14. To commend the Government of Mali for its chairmanship, for the coming two years, of the coordination platform, as an outcome of the ministerial meeting on the United Nations integrated strategy for the Sahel, held in Bamako on 5 November 2013; to reiterate the call of the Security Council on States of the Sahel, West Africa and the Maghreb to enhance interregional cooperation in order to develop inclusive and effective strategies to address the transnational challenges in the Sahel region, including to combat terrorist activities and transnational organized crime in the region; to reaffirm the commitment of the Council to addressing the complex security and political situation in the Sahel region, which is interrelated with humanitarian and developmental issues.

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Letter dated 31 January 2014 from the Ombudsperson to the President of the Security Council

I have the honour to submit herewith the seventh report of the Office of the Ombudsperson, pursuant to paragraph 18 (c) of annex II to Security Council resolution 2083 (2012), according to which the Ombudsperson shall submit biannual reports to the Council summarizing her activities. The report describes the activities of the Office of the Ombudsperson in the six months since the previous report was issued, covering the period from 1 August 2013 to 31 January 2014.

I would appreciate it if the present letter and the report were brought to the attention of the members of the Security Council and issued as a document of the Council.

(*Signed*) Kimberly **Prost**
Ombudsperson

14-22347 (E) 050314

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Report of the Office of the Ombudsperson pursuant to Security Council resolution 2083 (2012)

I. Background

1. The present report provides an update on the activities undertaken by the Office of the Ombudsperson since the issuance of the sixth report of the Office (S/2013/452) on 31 July 2013.

II. Activities related to delisting cases

General

2. The primary activities of the Office of the Ombudsperson during the reporting period related to delisting requests submitted by individuals and entities.

Delisting cases

3. During the reporting period, two new cases were submitted to the Office of the Ombudsperson. Both petitions were accepted. The total number of delisting petitions submitted since the establishment of the Office was 51 as at 31 January 2014. Unless the petitioner requests otherwise, all names remain confidential while under consideration and in the case of denial or withdrawal of a petition. During the reporting period, one petitioner requested that his name be published on the website.

4. In total, the Ombudsperson has submitted 46 comprehensive reports to the Security Council Committee pursuant to resolutions 1267 (1999) and 1989 (2011) concerning Al-Qaida and associated individuals and entities since the Office was established. The reports were submitted pursuant to resolutions 1904 (2009), 1989 (2011) and 2083 (2012). During the reporting period, the Ombudsperson submitted 11 reports and appeared before the Committee on five occasions to present eight cases.

5. Since the issuance of the sixth report, six individuals[1] and three entities[2] have been delisted through the Ombudsperson process. In one additional case, a separate Committee decision resulted in the delisting of an individual[3] during an active Ombudsperson case, making that case moot.

6. Cumulatively, since the Office was established, 43 cases involving requests from an individual, an entity or a combination of both have been completed.[4] As a result of the consideration of those cases through the Ombudsperson process, 31 individuals and 27 entities have been delisted, one entity has been removed as an alias of a listed entity, three delisting requests have been refused and one petition

[1] Mohammed Daki, Moustafa Abbas (listed as Moustafa Abbes), Youcef Abbas (listed as Youcef Abbes), L'hadi Bendebka (listed as Abdelhadi Ben Debka), Nabil Benatia (listed as Nabil ben Mohamed ben Ali ben Attia) and Jaber Abdallah Jaber Alhmad al-Jalahmah.

[2] Lajnat Al Daawa Al Islamiya, International Islamic Relief Organization, Indonesia, branch office, and International Islamic Relief Organization, Philippines, branch offices.

[3] Said Yousef AbouAziz (listed as Said Youssef Ali Abu Aziza).

[4] This figure includes three individuals delisted by the Committee before the Ombudsperson process was completed.

has been withdrawn. In addition, three individuals have been delisted by the Committee before the Ombudsperson process was completed. A description of the status of all the cases, as at 31 January 2014, is contained in the annex to the present report.

7. Eight cases were active at the time of preparing the present report. Of the two requests submitted to the Office during the reporting period, one was made by an individual and one on behalf of an entity. In total, 43 of the 51 cases were brought forward by individuals, two by an individual together with one or more entities and six by entities alone. In 25 of the 51 cases, the petitioner is or was assisted by legal counsel.

Gathering of information from States

8. In the two new cases, five requests for information have been sent to date, to three States. With respect to the 11 cases for which comprehensive reports were submitted to the Committee during the reporting period, there were four instances when a State from which information had been requested failed to respond. In addition to the responses received from States to which requests were specifically directed, some Committee members provided information in response to the general circulation of petitions. Importantly, in all 11 cases the designating States and States of residence all provided responses.

9. During the reporting period, the Ombudsperson held meetings on two occasions with officials in capitals on specific cases to gather information directly.

Dialogue with the petitioner

10. During the six months under review, the Ombudsperson interacted with all petitioners during the dialogue phase of pending cases, including through e-mail exchanges, telephone discussions and, where possible, face-to-face interviews. During the reporting period, the Ombudsperson travelled to interview five petitioners in person.

Access to classified or confidential information

11. No new agreements or arrangements for access to classified or confidential information were entered into during the reporting period. To date, there is one formal agreement with Austria and arrangements with Australia, Belgium, Costa Rica, France, Germany, Liechtenstein, the Netherlands, New Zealand, Portugal, Switzerland and the United Kingdom of Great Britain and Northern Ireland.

12. Further progress on expanding the list, in particular to other States often involved in the Ombudsperson process, is urgently needed.

III. Summary of activities related to the development of the Office of the Ombudsperson

General

13. Activities to further develop and strengthen the Office of the Ombudsperson continued during the reporting period to the extent possible.

Outreach and publicizing of the Office

14. The Ombudsperson participated in some outreach activities, which were again constrained by limited time and resources.

15. On 8 September 2013, the Ombudsperson spoke about her role at the Institute for Global Security Law and Policy at Case Western Reserve University School of Law in Cleveland, United States of America. On 26 September, she gave presentations on the work of the Office of the Ombudsperson at the International Tribunal for the Former Yugoslavia and at the Asser Institute-Centre for International and European Law in The Hague, the Netherlands. The Ombudsperson participated in two panel discussions related to the "Kadi II" judgement of the European Court of Justice — the first was hosted in The Hague by the Ministry of Foreign Affairs on 27 September; the other, organized by the European Union, was held in New York on 1 November. On 4 November, the Ombudsperson participated in a round-table discussion organized by the Council on Foreign Relations as part of a series on global counter-terrorism strategies. On 8 November, at a seminar at University College London, she gave a presentation entitled "Smarter European Union sanctions".[5] On 3 January 2014, the Ombudsperson discussed her work as part of a panel on international law-making and the United Nations at the annual meeting of the Association of American Law Schools.

Interaction with the Security Council Committee pursuant to resolutions 1267 (1999) and 1989 (2011) concerning Al-Qaida and associated individuals and entities and with the Monitoring Team

16. Since 31 July 2013, the Ombudsperson has appeared before the Committee on five occasions to present eight cases: on 13 September, in the case of Moustafa Abbas (delisted; formerly listed as Moustafa Abbes, QI.A.163.04.); on 29 October, in the cases of the International Islamic Relief Organization, Indonesia, branch office (delisted; formerly QE.I.127.06.), the International Islamic Relief Organization, Philippines, branch offices (delisted; formerly QE.I.126.06.) and Jaber Abdallah Jaber Ahmad al-Jalahmah (delisted; formerly QI.A.237.08., relisted on 3 January 2014 under the same number); on 15 November, in the case of Youcef Abbas (delisted; formerly listed as Youcef Abbes, QI.A.166.04.); on 3 December, in the case of Nabil Benatia (delisted; formerly listed as Nabil ben Mohamed ben Ali ben Attia, QI.B.69.02.); and on 13 December, in the case of Atilla Selek (delisted; formerly QI.S.270.09.) and L'hadi Bendebka (delisted; formerly listed as Abdelhadi Ben Debka, QI.B.162.04.). In addition, the Ombudsperson provided written updates to the Committee in relation to various cases as they progressed through each phase.

17. As in previous reporting periods, the Ombudsperson and staff in her Office continued to engage regularly with the Coordinator and members of the Monitoring Team. The Team continued to provide relevant information in accordance with paragraph 3 of annex II to Security Council resolution 2083 (2012). The Team's operational support and assistance was particularly valuable with respect to analysis and views concerning audiovisual material obtained in several cases.

[5] The seminar, which was organized by Piet Eeckhout and Maya Lester and by the Centre of Law and Governance in Europe of University College London, was supported by the European Union as a Global Actor, an interest group of the European Society of International Law.

Liaison with States, intergovernmental organizations, United Nations bodies and non-governmental organizations

18. The Ombudsperson continued to interact with States during the reporting period, in particular those of relevance to the pending delisting petitions. She held several bilateral meetings with States interested in the work of the Office to discuss general issues and recent legal cases. She maintained contact and held discussions with the informal Group of Like-Minded States on Targeted Sanctions[6] and with representatives of the European Union. The Ombudsperson also met some State officials in their capitals to obtain information regarding particular cases. On 6 December 2013, the Ombudsperson provided a briefing to new Security Council members, which was organized and hosted by Security Council Report.

19. The Ombudsperson and staff in her Office continued to interact with representatives of the Counter-Terrorism Implementation Task Force and the Executive Directorate of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism, as well as with the Terrorism Prevention Branch of the United Nations Office on Drugs and Crime and the Office of the United Nations High Commissioner for Human Rights. The Ombudsperson also met representatives of the International Centre for Counter-Terrorism, located in The Hague, in November.

20. During the reporting period, the Ombudsperson also had meetings with representatives of non-governmental organizations and exchanged views with several academics on issues relevant to the Ombudsperson process.

Working methods and research

21. As in previous reporting periods, casework involved carrying out open-source research and contacting journalists and authors to collect information on and verify sources of publicly available case-related material.

22. The Ombudsperson continued to follow developments with regard to relevant national and regional legal cases, including the judgement of 26 November 2013 in the case *Al-Dulimi and Montana Management Inc. v. Switzerland*.[7] The Ombudsperson also collected and reviewed relevant press articles and reports of non-governmental organizations and academic articles pertinent to the work of the Office. She discussed general legal issues of relevance with counsel in the Office of Legal Affairs of the Secretariat, which has continued to provide assistance and advice to the Ombudsperson on specific legal issues.

Website

23. The website of the Office of the Ombudsperson (www.un.org/en/sc/ombudsperson) continues to be revised and updated.

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[6] Comprising Austria, Belgium, Costa Rica, Denmark, Germany, Finland, Liechtenstein, the Netherlands, Norway, Sweden and Switzerland.

[7] *Al-Dulimi and Montana Management Inc. v. Switzerland*, Judgement of 26 November 2013, European Court of Human Rights (application No. 5809/08).

IV. Other activities

Notifications of listing

24. In accordance with paragraph 16 (b) of annex II to Security Council resolution 1989 (2011) and paragraph 18 (b) of annex II to Council resolution 2083 (2012), when an individual or entity is added to the list and relevant States have been notified, the Ombudsperson is to send a notification directly to that individual or entity if there is a known address.

25. In the six months since the sixth report was issued, four individuals and one entity have been added to the Al-Qaida sanctions list. The listings include an individual whose name was removed from the list and then was added again on the same day. Each of those listings was considered with reference to the question of notification. In three of the cases, no address was available or the information provided was insufficiently detailed for there to be any reasonable prospect of the notification reaching the addressee. In the fourth case, involving a delisting followed by an immediate listing, the Ombudsperson notified the listed person and his counsel.

Miscellaneous matters

26. The Ombudsperson continued to receive and respond to various inquiries about the Committee and the Ombudsperson process. This included requests for assistance and information from State representatives, United Nations agencies, non-governmental organizations, lawyers, listed individuals, the media, academics, students and the general public.

V. Future work

27. As in previous reporting periods, the paramount activity of the Office of the Ombudsperson will continue to relate to the delisting requests. Two petitions were received during the most recent reporting period, a significant decline from the previous two reporting periods.[8] While some decrease is to be expected given the finite nature of the list, it is not possible to draw any conclusions as to future trends from the figures for the most recent period alone, since multiple factors influence the presentation of requests for delisting. For example, some listings are interrelated and it is evident that word of mouth plays a role in the dissemination of information about the process. As some recent petitions are related to other listings, concluding consideration of them could trigger further petitions. Moreover, recent experience has demonstrated that some listed persons and entities remain unaware of the Ombudsperson process. Efforts to disseminate information in that regard continue and may trigger additional applications in upcoming months.

28. Given these various factors, it is increasingly difficult to anticipate the future caseload with any certainty. On the basis of recent patterns of activity and taking these various factors into account, however, it is reasonable to assume that the Office of the Ombudsperson will receive approximately four requests in the next six-month period and that six cases will be active at the end of the next reporting period.

[8] Thirteen cases were submitted in the previous reporting period and six in the period before that.

29. Because of the continuing challenges associated with the lack of access to classified material, the development of arrangements or agreements for access to classified or confidential information will be the second priority for the Office of the Ombudsperson in the upcoming period. Renewed efforts will be made to raise the issue with States in order to enhance the ability of the Ombudsperson to gain access to critical information of relevance to delisting petitions.

30. The Office of the Ombudsperson has been operational for more than three and a half years. As a result, it is of increasing importance that procedural documents related to the Office be reviewed and revised to reflect experience and the realities of current practice. Such a review would constitute an important step forward in terms of institutionalizing practices, thereby avoiding difficulties during times of transition in the future. Furthermore, the high volume of cases considered during the past three and a half years has generated considerable information in terms of research and has led to factual findings and interpretations relevant for the future consideration of requests that raise similar issues. It is necessary to develop systems for better information management, including a searchable database. Such measures would strengthen the institutional memory of the Office and facilitate cross-referencing and research with regard to future cases involving overlapping facts, issues or applicable principles. This work too will be given priority.

31. Lastly, the Ombudsperson and her Office will continue to carry out outreach and liaison activities to the extent that resources permit, in order to make the process more visible and understandable to potential petitioners and other interested actors.

VI. Observations and conclusions

Due process

32. The Ombudsperson process continues to operate in compliance with the fundamental principles of fairness highlighted in previous reports.[9] Notably, in all cases completed during the reporting period, the petitioner was informed of the case underlying the listing and had an opportunity to respond and be heard by the decision maker through the Ombudsperson's comprehensive report. All Committee decisions on delisting petitions made during the reporting period were premised solely on information gathered by the Ombudsperson and followed her recommendation. In no case did the Committee take a decision by consensus contrary to the recommendation of the Ombudsperson and no matter was referred to the Security Council. As a result, each petitioner benefited from an effective, independent review of the basis for the listing and the information supporting it.

33. On one occasion, however, a petitioner's name was placed on the Al-Qaida sanctions list immediately after the Committee's decision to delist, with the result that the petitioner continues to be subject to the same sanctions measures. Given the proximity of the two decisions and the combined effect on the petitioner, the ramifications of this case for the fairness of the Ombudsperson process merit consideration.

[9] See in particular the detailed discussion in paragraphs 28-32 of the sixth report (S/2013/452).

34. The decision to relist was the result of a separate and independent decision of the Committee in which the Ombudsperson had no role. However, in a press release, the Committee stated that the decision had been taken on the basis of new information concerning recent support to Al-Qaida by the petitioner. That information was not available to the Ombudsperson when the comprehensive report was delivered to the Committee and was therefore not considered by the Committee when making its decision on the petition.[10]

35. The circumstances surrounding the relisting decision are significant in terms of the fairness of the Ombudsperson process. Although the Committee evidently received new information prior to the delisting, it did not rely on it in assessing and deciding on the petition. This is consistent with a fundamental fairness precept of the Ombudsperson process: that the Committee's decision be premised solely on the information gathered by the Ombudsperson as detailed in the comprehensive report. If the Committee were to rely on additional material not disclosed to the petitioner and scrutinized by the Ombudsperson, it would contravene the principles of fair process in terms of knowing and responding to the case, as well as effective independent review. Given that the new information played no part in the decision on the delisting petition, however, the Ombudsperson process in the specific case remained procedurally fair.

36. Particularly from the perspective of the petitioner, it is unfortunate that the Committee received new information at such a late stage in its consideration of that particular listing. Nonetheless, the possibility of new material surfacing late or even subsequent to delisting has always existed. While the timing is certainly regrettable, relisting on the basis of new information does not constitute an unfair procedure absent any other circumstances indicating to the contrary. Moreover, as the decision to list constitutes a new determination by the Committee, at least with respect to the Al-Qaida sanctions list, the petitioner has an immediate recourse available in that he can seek delisting through the Ombudsperson process. In this case, in accordance with paragraph 18 (b) of annex II to Security Council resolution 2083 (2012), the Ombudsperson has already notified the petitioner of the relisting and the availability of the Ombudsperson process.

37. The Ombudsperson is of the view that an independent decision to relist does not affect the fairness of the Ombudsperson process, in general or in this specific case. Thus, during the reporting period the Ombudsperson process continued to deliver, in the individual cases, a fair process.

Time frames

38. Another important factor when assessing the fairness of the process is its expeditiousness. Based on the current regime as mandated by the Security Council, the possible time frame for the consideration of a delisting request ranges from approximately 8 to 14 months.[11] Statistics show that in the three and a half years of operation of the Ombudsperson mechanism, the average time between the submission of a delisting request and the Committee's decision on the same has been just more than nine months. This number speaks for itself and is clearly a

[10] See www.un.org/News/Press/docs/2014/sc11241.doc.htm.

[11] These average numbers do not take account of the timing of the delivery of reasons (see below), as this requirement was adopted too recently with respect to granted delisting requests to be meaningfully assessed at this time.

testament to the fact that there is a focus on making the process as expeditious as possible.

Provision of reasons for delisting and retention

39. In its resolution 2083 (2012), the Security Council recognized the importance of reasons being part of a fair process by requiring such reasons to be provided to a petitioner whether the delisting request is accepted or refused. This represents a further advancement for the Ombudsperson process in terms of transparency and overall fairness.

40. In cases of delisting, however, the value of this improvement — for the petitioner and in terms of the transparency of process — has been diminished significantly by the extensive delays in communicating the reasons by the Committee and the relatively limited factual and analytical references provided. During the reporting period, reasons for the Committee's decision were communicated to petitioners in three cases. As at the time of writing the present report, however, reasons had not been provided in 14 cases. Several of the cases were decided months ago; in one instance, the decision was taken more than a year ago. While delayed delivery and limited content remains preferable to no reasons, the meaningfulness of communicating reasons in terms of the fairness of the process, especially in the perception of the petitioner, is reduced markedly by the passage of time.

41. On a practical level, the Ombudsperson advises the petitioner immediately of the decision to delist and the press release prepared by the Committee can be provided upon request. However, an official notification by the Ombudsperson to the petitioner cannot be sent until a formal communication has been provided by the Committee, with reasons. Delays in communicating the official decision only serve to exacerbate the general problems that petitioners face in obtaining implementation of the decision to delist. In that regard, in several instances delisted individuals have pointed to the absence of an official notification as the basis for difficulties faced in terms of travel or access to assets.

42. As mentioned in the sixth report, the problem with respect to reasons is not limited to cases of delisting. In accordance with the procedure set out by the Security Council, if the Ombudsperson recommends retaining the listing, the name of the sanctioned entity or individual will remain on the list, putting an end to further consideration of the delisting petition. While a Committee member disagreeing with the result can put forward a separate delisting request, that action will not affect the decision to reject the petitioner's original request. As a result, the listing is retained on the basis of the comprehensive report and the recommendation of the Ombudsperson. Under the current structure, however, the reasons for the decision are prepared by the Committee and conveyed to the Ombudsperson for transmission to the petitioner. There is therefore a real possibility that the reasons provided will not be consistent with the observations, analysis and findings of the Ombudsperson, introducing a fundamental unfairness into the process.

43. Experience to date supports the view that it is important, in terms of the fairness and transparency of the process, that reasons be provided. At the same time, it is clear that changes are needed to allow for the timely delivery of reasons and to ensure that the reasons are substantive in content and properly take into account the conclusions of the independent reviewer.

44. A partial solution could be to impose time constraints for the delivery of reasons. This would be consistent with the Ombudsperson process in general, which is governed throughout by strict deadlines. Such an approach fails to recognize the complexity of preparing reasons by the Committee, however, and may have the unintended consequence of further reducing the substantive content of the text.

45. A far more preferable and comprehensive solution would be to make the procedure for the provision of reasons consistent with the Ombudsperson process. In cases in which a listing is maintained on the basis of a recommendation by the Ombudsperson, it follows that the Ombudsperson should provide the reasons for that determination to the petitioner, with appropriate safeguards regarding the release of confidential material. This would ensure uniformity between the comprehensive report and the reasons and would be entirely in accord with the decision-making process in such circumstances.

46. Similarly, in delisting cases the Ombudsperson should be mandated to provide reasons based on the comprehensive report. While in such cases there is provision for the Committee to make a decision by consensus or through the application of paragraph 21 of resolution 2083 (2012), the final decision to delist would be in conformity with the recommendation of the Ombudsperson. That recommendation, in turn, would be premised on the information and analysis set out in the comprehensive report. As a result, the Ombudsperson is in the most advantageous position to prepare and provide reasons to the petitioner for the recommendation made, again with protections as regards any confidential material. In this context too, fairness dictates that the reasons provided to the petitioner should be consistent with the findings in the comprehensive report prepared by the independent reviewer. Importantly, given that the reasons can be clearly identified as being those of the Ombudsperson, the challenges that currently exist in relation to preparing the reasons when there is no consensus among Committee members would be overcome.

47. In cases of a Committee reversal or a Security Council decision, responsibility for providing reasons should be left to the Committee and the Council respectively.

48. In the view of the Ombudsperson, according responsibility for the delivery of reasons to the Ombudsperson would significantly enhance the fairness, transparency and efficiency of the process.

Mechanism for disclosing the reasons

49. There is another important consideration pertaining to the provision of reasons in the Ombudsperson process. As discussed in detail below, there is still limited transparency in the Ombudsperson procedure flowing mostly from the fact that the comprehensive report is not made available to interested States, the petitioner or the public. As a result, the reasoning of the Ombudsperson for arriving at a recommendation is not generally available. The sole exception is the information conveyed through the reasons, which are provided to the petitioner. This is the only mechanism established by the resolution through which it might be possible to disclose some of the factual information and findings in a case beyond the Office of the Ombudsperson and the Committee.

50. Currently, however, no means are specified in the resolution for those reasons to be publicly disclosed or even disseminated to clearly interested parties such as

States that are not members of the Committee, courts or national, regional and international bodies that might be implicated in particular cases. This is a significant lacuna in the process, the rationale for which is unclear. As the reasons are disclosed to the petitioner, who is free to disseminate them, there can be no question of confidentiality or protection of information. Moreover, a case-by-case approach is not satisfactory in this context, as the petitioner evidently should know from the beginning of the process how and to whom reasons will be disseminated. To the extent that there are concerns arising from a possible lack of consensus within the Committee, the proposal to mandate the Ombudsperson with the responsibility to prepare and disseminate the reasons for the recommendation made would address those apprehensions.

51. The absence from the resolution of a prescribed mechanism for disclosing reasons is evidently an issue in terms of transparency. It can also have practical ramifications for the effectiveness of the process, however, particularly at a time when there is increasing parallel consideration of individual cases at the national, regional and international levels. In this context, it is in the interest of fairness and the effectiveness of the sanctions measures that information on the decisions taken and the reasons for taking them be shared.

52. For all those reasons, consideration should be given to making public through the Ombudsperson process the reasons for removing or retaining a listing or, at least, to providing for the disclosure of information on those reasons to interested individuals, States or bodies.

Disclosure of the identity of the designating State

53. In paragraph 12 of its resolution 2083 (2012), the Security Council decided that States proposing names for inclusion in the Al-Qaida sanctions list should be the ones to specify if the Committee or the Ombudsperson may not make known their status as designating States. The Ombudsperson may therefore disclose the identity of the designating State absent a specific objection by that State.

54. During the reporting period, no State objected to the disclosure of its identity as a designating State. The fairness of the process has therefore been enhanced. It remains to be seen whether the absence of objections will continue to be the norm in future cases and what the effect of an objection would be.

Transparency of the process

55. Lack of transparency in the process continues to present the same challenges, as noted in other reports, with respect to the fairness and the credibility of the process as a whole. While the Security Council, by its resolution 2083 (2012), allows the Ombudsperson to disclose the recommendation to relevant States, the comprehensive report remains confidential, with the result that relevant States that are not members of the Committee are not aware of the information gathered, the analysis conducted or the basis for the recommendation.

56. Provided that there are protections in place for confidential material, it is difficult to rationalize why interested States that are not members of the Committee (in particular designating States or States of residence) are not given access to the comprehensive report. In each case, those States will have been fully implicated in the Ombudsperson process in terms of the provision of information and will be

expected to cooperate fully in that regard. Nevertheless, the State will ultimately receive no substantive information as to the basis for the recommendation made or the decision taken. It also creates obvious problems in terms of the relationship of cooperation between the Ombudsperson and the State. Moreover, in most cases, these are the States that ultimately will feel the effects of the decisions most directly and that will have important implementation responsibilities. In principle, it is evidently a practice that creates a significant inequality between States that are members of the Committee and States that are not, with reference to a sanctions regime in which all States are encouraged to participate. As such, in addition to the issues of lack of transparency and overall fairness, it appears to be counterproductive in terms of the effective implementation of the sanctions regime.

57. In some cases, the Committee's permission to disclose the report or parts thereof has been sought, especially where there could be damage to the Ombudsperson's ongoing relationship with the State. This is not a particularly satisfying solution, however, given that it provides no certainty to the relevant States or the petitioner as regards disclosure of information to such States. For all those reasons, consideration should be given to allowing for the comprehensive report to be disclosed to designating States, States of residence and nationality and any other relevant State.

58. The Ombudsperson cannot disclose the comprehensive report or her recommendation to the petitioner, who is thus left uninformed about the findings and final position of the Ombudsperson and about the analysis leading to that position, except, as discussed, to the extent that it is captured in any reasons provided. The petitioner, whose rights are directly affected by the sanctions measures and who will have been advised of the underlying information in the case, as far as possible, should have the opportunity to review and understand the findings and analysis of the Ombudsperson. Any confidential material in the report can easily be protected through the creation of a redacted version. To enhance the transparency and fairness of the Ombudsperson process, consideration should be given to a mechanism for disclosing the comprehensive report to the petitioner. At the very least, the Ombudsperson should be able to inform the petitioner of her recommendation at the same time as relevant States that are not members of the Committee are informed.

59. As to the public, only basic information on the process and the statistics related to the cases can be released. The overall lack of transparency for the general public undermines the fairness and credibility of the process as a whole. The most effective remedy would be to provide for public disclosure of the reports with proper measures in place to ensure the protection of confidential material.

Cooperation of States and specificity of information

60. State cooperation in terms of responses remained strong during the reporting period. As in the previous reporting period, all designating States and States of residence replied in the cases that were completed. The three States that did not respond were contacted as relevant States thought potentially to hold pertinent information. Of those States, one had only a remote link to the case and had previously indicated having no information on a related case. The other two faced internal circumstances that may well have precluded easy access to information from the authorities.

61. The reporting period was particularly fruitful in terms of the level of detail and thoroughness of information received in a number of cases, including confidential material in some instances. This allowed the Ombudsperson to fully assess the sufficiency, reasonableness and credibility of the underlying information in those cases. In a significant number of instances, however, the Ombudsperson received responses in the form of assertions lacking any level of detail or supporting information. As noted previously, this failing undermines the effectiveness of the overall process, including the dialogue with the petitioner. Most significantly, it has an impact on the Ombudsperson's ability to conduct a thorough analysis of the underlying information as an independent reviewer, to prepare a comprehensive report that properly reflects the facts of the case and to provide, in all circumstances, an appropriate recommendation.

62. The major impediment to the disclosure of detailed information remains the question of confidential or classified material despite some limited progress in individual cases. While no progress was made in terms of increasing the number of arrangements or agreements for gaining access to such material, discussions are ongoing with several States. Further progress on this issue is possible only if practical solutions can be found to overcome national access restrictions, especially with States that are frequently implicated in specific cases.

Mandate for the follow-up of delisting

63. Individuals and entities continue to inform the Ombudsperson of problems encountered in terms of continued restrictions following their delisting by the Committee, especially when they have not received formal notification of their delisting. Such follow-up requests fall outside the mandate of the Ombudsperson.

64. As noted in all previous reports, this presents a major threat to the principles of fairness and more generally to the credibility and effectiveness of the Al-Qaida sanctions regime. The improper, continued application of Security Council sanctions measures restricts fundamental rights to property and movement without any legal basis or justification. The current mechanism does not provide for any recourse in such cases. For these reasons and those expressed in the previous reports of the Ombudsperson (see S/2013/452, para. 55; S/2013/71, paras. 48-49; S/2012/590, para. 46; S/2012/49, para. 50; and S/2011/447, para. 47), consideration should be given to including in the mandate of the Ombudsperson the task of following up on claims of continued application of sanctions measures despite delisting.

Referral of cases to the Ombudsperson by the Committee

65. Currently, the Ombudsperson process is designed to address only those cases where an individual or entity or an appropriate representative brings an application for delisting. In cases in which a listing may no longer be appropriate, the Security Council, by its resolution 1822 (2008), mandated the Committee to conduct an annual review of all listings that had not been examined in three or more years. In this triennial review process, the Committee will endeavour to obtain the views of all relevant States in order to determine whether the listing remains appropriate. The States consulted may propose that the listing be maintained on the basis of information supporting the view that the criteria for listing continue to be met or bring an application for delisting after reviewing the case. Not all cases will fall into one of those two categories, however, because States may not take a clear position

one way or the other and/or the information provided may be insufficient or conflicting.

66. In its thirteenth and fourteenth reports to the Committee, the Monitoring Team recommended that the triennial review process be improved in that regard and that steps be taken to ensure that the Committee can take action in such circumstances. Specifically, it recommended that the Committee should proceed as if the designating State had requested delisting pursuant to paragraph 27 of resolution 1989 (2011),[12] unless the designating State argued for retention and provided detailed reasons in support (see S/2012/968, para. 24, and S/2013/467, para. 24).

67. As a complement to the proposal of the Monitoring Team, the Security Council could also consider the option of having the Committee refer the matter to the Office of the Ombudsperson in these circumstances. Thus, where no State objects or presents a delisting request or where the information submitted is insufficient or conflicting, the matter could be referred to the Office. The availability of referral to the Ombudsperson, which would entail an in-depth information-gathering process, might be particularly valuable in cases in which the Committee considers that it lacks the information necessary to make an informed decision.

68. The granting of such referral power to the Committee would have the effect of strengthening the effectiveness of the review process and enhancing the tools available to the Committee to assess the continued appropriateness of listings.

Assistance from staff members and independence

69. The Ombudsperson continues to be assisted in her work by a Legal Officer (P-4) and an Administrative Assistant. This assistance has been essential to the proper fulfilment of the mandate of the Ombudsperson, in particular given the caseload and the increasingly complex and challenging issues that have arisen in some instances.

70. The Secretariat, however, has recently decided that substantive trip reports must be submitted at the conclusion of any official travel undertaken by the staff members assisting the Ombudsperson. While this does not affect the Administrative Assistant, the Legal Officer has, on occasion, accompanied the Ombudsperson on her travels, in particular to assist with petitioner interviews. Despite assurances by the Secretariat that the reports will respect the confidentiality of the work, it is difficult to envisage how the content of any such report will not infringe on that confidentiality. Moreover, in principle, the establishment of a reporting line between the Office of the Ombudsperson and the Secretariat on substantive matters represents a direct and significant incursion into the independence of the Office, both in terms of perception and in practice. To safeguard that independence and to preserve the relationships of trust that underpin the effectiveness of the process, it will no longer be possible for the Legal Officer to participate in any operational travel. That restriction will need to remain in place as long as participation in any such travel triggers an obligation to report on substantive matters. This development is highly regrettable given the valuable assistance provided by the Legal Officer in this context. In addition, in some cases, it is evident that other resources — perhaps in the form of independent consultants — will have to be identified when it is essential for the Ombudsperson to have support during an official trip.

[12] Paragraph 27 of resolution 1989 (2011) is reflected in paragraph 26 of resolution 2083 (2012).

Conclusions

71. The Office of the Ombudsperson currently provides individuals and entities listed by the Committee with a fair and accessible recourse. In practice, the procedure set out by the Security Council for consideration of delisting petitions, through the Ombudsperson, meets the fundamental precepts of fairness and provides for an independent review of the factual information underlying the listings. The strict timelines and an expeditious approach in the handling of the cases further strengthen the effectiveness of the process. The Ombudsperson remains of the view that in each completed case to date the petitioner has benefited from a fair process.

72. Nonetheless, further steps can be taken to enhance the effectiveness of the process. It is imperative that increased access be provided to classified or confidential material concerning particular listings. This is the only means of ensuring that the Ombudsperson can deliver on the mandate to comprehensively consider the delisting case and provide a fully informed recommendation.

73. Changes are needed to the process by which reasons are delivered, both in the case of delisting and retention, to ensure timely delivery and substantive content that properly reflects the analysis and findings of the independent reviewer. Moreover, provision should be made for public disclosure of those reasons. On the same point, many challenges remain in terms of the general transparency of the procedures and in particular with respect to the disclosure of relevant information in the comprehensive report to the relevant States and the petitioner. Consideration also needs to be given to enhancing the role of the Ombudsperson in ensuring full implementation of the Committee's decisions to delist and to the possibility of according the Committee the power to refer to the Ombudsperson a case that would merit consideration through that process.

74. While there is room for further improvement, the Ombudsperson process continues to deliver a fair process and contribute to strengthening the effectiveness and credibility of the Al-Qaida sanctions regime of the Security Council.

Annex

Status of cases

Case 1, one individual (Status: denied)

Date	*Description*
28 July 2010	Transmission of case 1 to the Committee
28 February 2011	Comprehensive report submitted to the Committee
10 May 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
14 June 2011	Committee decision
1 September 2011	Formal notification to petitioner with reasons

Case 2, Safet Ekrem Durguti (Status: delisted)

Date	*Description*
30 September 2010	Transmission of case 2 to the Committee
26 April 2011	Comprehensive report submitted to the Committee
31 May 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
14 June 2011	Committee decision to delist
12 August 2011	Formal notification to petitioner with reasons

Case 3, one entity (Status: delisting request withdrawn by petitioner)

Date	*Description*
3 November 2010	Transmission of case 3 to the Committee
14 June 2011	Comprehensive report submitted to the Committee
26 July 2011	Presentation of comprehensive report by the Ombudsperson to the Committee
2 August 2011	Withdrawal of petition

Case 4, Shafiq Ben Mohamed Ben Mohammed Al Ayadi (Status: delisted)

Date	*Description*
6 December 2010	Transmission of case 4 to the Committee
29 June 2011	Comprehensive report submitted to the Committee
26 July 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
17 October 2011	Committee decision to delist
8 November 2011	Formal notification to petitioner with reasons

Case 5, Tarek Ben Al-Bechir Ben Amara Al-Charaabi (Status: delisted)

Date	*Description*
30 December 2010	Transmission of case 5 to the Committee
26 April 2011	Comprehensive report submitted to the Committee
31 May 2011	Presentation of the Comprehensive Report by the Ombudsperson to the Committee
14 June 2011	Committee decision to delist
12 August 2011	Formal notification to petitioner with reasons

Case 6, Abdul Latif Saleh (Status: delisted)

Date	*Description*
14 January 2011	Transmission of case 6 to the Committee
17 June 2011	Comprehensive report submitted to the Committee
26 July 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
19 August 2011	Committee decision to delist
8 November 2011	Formal notification to petitioner with reasons

Case 7, Abu Sufian Al-Salamabi Muhammed Ahmed Abd Al-Razziq (Status: delisted)

Date	*Description*
28 January 2011	Transmission of case 7 to the Committee
23 September 2011	Comprehensive report submitted to the Committee
15 November 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
30 November 2011	Committee decision to delist
13 February 2012	Formal notification to petitioner with reasons

Case 8, Ahmed Ali Nur Jim'ale and 23 entities[a] (Status: delisted)

Date	*Description*
17 March 2011	Transmission of case 8 to the Committee
23 September 2011	Comprehensive report submitted to the Committee
13 December 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
27 December 2011	Committee decision to delist six entities
21 February 2012	Committee decision to delist one individual and 17 entities
8 June 2012	Formal notification to petitioner with reasons

[a] Barakaat North America, Inc., Barakat Computer Consulting, Barakat Consulting Group, Barakat Global Telephone Company, Barakat Post Express, Barakat Refreshment Company, Al Baraka Exchange, LLC, Barakaat Telecommunications Co. Somalia, Ltd., Barakaat Bank of Somalia, Barako Trading Company, LLC, Al-Barakaat, Al-Barakaat Bank, Al-Barakaat Bank of Somalia, Al-Barakat Finance Group, Al-Barakat Financial Holding Co., Al-Barakat Global Telecommunications, Al-Barakat Group of Companies Somalia Limited, Al-Barakat International, Al-Barakat Investments, Barakaat Group of Companies, Barakaat Red Sea Telecommunications, Barakat International Companies and Barakat Telecommunications Company Limited.

Case 9, Saad Rashed Mohammed Al-Faqih and Movement for Reform in Arabia (Status: delisted)

Date	*Description*
19 April 2011	Transmission of case 9 to the Committee
21 February 2012	Comprehensive report submitted to the Committee
17 April 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
1 July 2012	Committee decision to delist
13 November 2012	Formal notification to petitioner with reasons

Case 10, Ibrahim Abdul Salam Mohamed Boyasseer (Status: delisted)

Date	*Description*
6 May 2011	Transmission of case 10 to the Committee
9 January 2012	Comprehensive report submitted to the Committee
1 March 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
8 May 2012	Committee decision to delist
3 August 2012	Formal notification to petitioner with reasons

Case 11, Mondher ben Mohsen ben Ali al-Baazaoui (Status: delisted)

Date	*Description*
1 June 2011	Transmission of case 11 to the Committee
19 January 2012	Comprehensive report submitted to the Committee
1 March 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
30 March 2012	Committee decision to delist
10 July 2012	Formal notification to petitioner with reasons

Case 12, Kamal ben Mohamed ben Ahmed Darraji (Status: delisted)

Date	*Description*
30 June 2011	Transmission of case 12 to the Committee
28 February 2012	Comprehensive report submitted to the Committee
3 April 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
4 May 2012	Committee decision to delist
3 August 2012	Formal notification to petitioner with reasons

Case 13, Fondation Secours Mondial (Status: amended[b])

Date	*Description*
7 July 2011	Transmission of case 13 to the Committee
14 December 2011	Comprehensive report submitted to the Committee
24 January 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
17 February 2012	Committee decision to amend
9 July 2012	Formal notification to petitioner with reasons

[b] Amended to be removed as an alias of Global Relief Foundation (QE.G.91.02.).

Case 14, Sa'd Abdullah Hussein al-Sharif (Status: delisted)

Date	*Description*
20 July 2011	Transmission of case 14 to the Committee
29 February 2012	Comprehensive report submitted to the Committee
3 April 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
27 April 2012	Committee decision to delist
5 June 2012	Formal notification to petitioner with reasons

Case 15, Fethi ben al-Rebei Absha Mnasri (Status: delisted)

Date	*Description*
4 August 2011	Transmission of case 15 to the Committee
9 March 2012	Comprehensive report submitted to the Committee
17 April 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
2 May 2012	Committee decision to delist
3 August 2012	Formal notification to petitioner with reasons

Case 16, Mounir Ben Habib Ben al-Taher Jarraya (Status: delisted)

Date	*Description*
15 August 2011	Transmission of case 16 to the Committee
9 March 2012	Comprehensive report submitted to the Committee
17 April 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
2 May 2012	Committee decision to delist
3 August 2012	Formal notification to petitioner with reasons

Case 17, Rachid Fettar (Status: delisted)

Date	*Description*
26 September 2011	Transmission of case 17 to the Committee
27 April 2012	Comprehensive report submitted to the Committee
5 June 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
20 June 2012	Committee decision to delist
19 December 2012	Formal notification to petitioner with reasons

Case 18, Ali Mohamed El Heit (Status: delisted)

Date	*Description*
5 October 2011	Transmission of case 18 to the Committee
2 May 2012	Comprehensive report submitted to the Committee
3 July 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
19 July 2012	Committee decision to delist
19 December 2012	Formal notification to petitioner with reasons

Case 19, Yassin Abdullah Kadi (listed as Yasin Abdullah Ezzedine Qadi) (Status: delisted)

Date	*Description*
16 November 2011	Transmission of case 19 to the Committee
11 July 2012	Comprehensive report submitted to the Committee
10 September 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
5 October 2012	Committee decision to delist

Case 20, Chabaane ben Mohamed ben Mohamed al-Trabelsi (Status: delisted)

Date	*Description*
21 November 2011	Transmission of case 20 to the Committee
23 April 2012	Comprehensive report submitted to the Committee
5 June 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
20 June 2012	Committee decision to delist
19 December 2012	Formal notification to petitioner with reasons

Case 21, Adel Abdul Jalil Ibrahim Batterjee (Status: delisted)

Date	*Description*
3 January 2012	Transmission of case 21 to the Committee
10 October 2012	Comprehensive report submitted to the Committee
6 November 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
14 January 2013	Committee decision to delist
5 September 2013	Formal notification to petitioner with reasons

Case 22, Ibrahim ben Hedhili ben Mohamed al-Hamami (Status: delisted)

Date	*Description*
6 February 2012	Transmission of case 22 to the Committee
25 September 2012	Comprehensive report submitted to the Committee
6 November 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
21 November 2012	Committee decision to delist
7 February 2013	Formal notification to petitioner with reasons

Case 23, Suliman Hamd Suleiman Al-Buthe (Status: delisted) (Repeated request)

Date	*Description*
23 February 2012	Transmission of case 23 to the Committee
30 August 2012	Comprehensive report submitted to the Committee
27 November 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
10 February 2013	Committee decision to delist
30 August 2013	Formal notification to petitioner with reasons

Case 24, Mamoun Darkazanli (Status: delisted)

Date	*Description*
28 February 2012	Transmission of case 24 to the Committee
12 November 2012	Comprehensive report submitted to the Committee
8 January 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
11 March 2013	Committee decision to delist
30 August 2013	Formal notification to petitioner with reasons

Case 25, Abdullahi Hussein Kahie (Status: delisted)

Date	*Description*
28 February 2012	Transmission of case 25 to the Committee
26 July 2012	Comprehensive report submitted to the Committee
10 September 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
26 September 2012	Committee decision to delist
19 December 2012	Formal notification to petitioner with reasons

Case 26, Usama Muhammed Awad Bin Laden (Status: delisted)
Ombudsperson case became moot following the Committee's decision of 21 February 2013

Date	*Description*
23 April 2012	Transmission of case 26 to the Committee
15 February 2013	Comprehensive report submitted to the Committee
21 February 2013	Committee decision to delist

Case 27, one individual (Status: denied)

Date	*Description*
7 May 2012	Transmission of case 27 to the Committee
11 February 2013	Comprehensive report submitted to the Committee
7 May 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
7 May 2013	Committee decision to retain listing
12 June 2013	Formal notification to petitioner with reasons

Case 28, one individual (Status: denied)

Date	*Description*
7 June 2012	Transmission of case 28 to the Committee
20 November 2012	Comprehensive report submitted to the Committee
8 January 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
8 January 2013	Committee decision to retain listing
29 January 2013	Formal notification to petitioner with reasons

Case 29, Muhammad 'Abdallah Salih Sughayr (Status: delisted)

Date	*Description*
25 July 2012	Transmission of case 29 to the Committee
9 April 2013	Comprehensive report submitted to the Committee
21 May 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
20 July 2013	Committee decision to delist

Case 30, Lajnat Al Daawa Al Islamiya (Status: delisted)

Date	*Description*
25 July 2012	Transmission of case 30 to the Committee
15 April 2013	Comprehensive report submitted to the Committee
2 July 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
3 September 2013	Committee decision to delist

Case 31, Abd al Hamid Sulaiman Muhammed al-Mujil (Status: delisted)

Date	*Description*
1 August 2012	Transmission of case 31 to the Committee
13 March 2013	Comprehensive report submitted to the Committee
30 April 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
30 June 2013	Committee decision to delist

Case 32, Mohamed ben Mohamed ben Khalifa Abdelhedi (Status: delisted)

Date	*Description*
19 September 2012	Transmission of case 32 to the Committee
5 March 2013	Comprehensive report submitted to the Committee
16 April 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
1 May 2013	Committee decision to delist

Case 33, Mohammed Daki (Status: delisted)

Date	*Description*
12 October 2012	Transmission of case 33 to the Committee
28 May 2013	Comprehensive report submitted to the Committee
30 July 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
16 August 2013	Committee decision to delist

Case 34, Abdelghani Mzoudi (Status: delisted)
Ombudsperson case became moot following the Committee's decision of 18 March 2013

Date	*Description*
8 November 2012	Transmission of case 34 to the Committee
18 March 2013	Committee decision to delist

Case 35, international Islamic Relief Organization, Philippines, branch offices (Status: delisted)

Date	*Description*
13 December 2012	Transmission of case 35 to the Committee
5 September 2013	Comprehensive report submitted to the Committee
1 November 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
3 January 2014	Committee decision to delist

Case 36, International Islamic Relief Organization, Indonesia, branch office (Status: delisted)

Date	*Description*
13 December 2012	Transmission of case 36 to the Committee
5 September 2013	Comprehensive report submitted to the Committee
1 November 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
3 January 2014	Committee decision to delist

Case 37, Jaber Abdullah Jaber Ahmed Al-Jalahmah (Status: delisted)[c]

Date	*Description*
4 February 2013	Transmission of case 37 to the Committee
5 September 2013	Comprehensive report submitted to the Committee
1 November 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
3 January 2014	Committee decision to delist

[c] Jaber Abdullah Jaber Ahmed Al-Jalahmah was relisted on the same date by a separate Committee decision.

Case 38, Moustafa Abbas (listed as Moustafa Abbes) (Status: delisted)

Date	*Description*
13 February 2013	Transmission of case 38 to the Committee
12 August 2013	Comprehensive report submitted to the Committee
13 September 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
30 September 2013	Committee decision to delist

Case 39, Atilla Selek (Status: delisted)

Date	*Description*
13 February 2013	Transmission of case 39 to the Committee
2 October 2013	Comprehensive report submitted to the Committee
13 December 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
31 December 2013	Committee decision to delist

Case 40, one individual (Status: Committee phase)

Date	*Description*
4 March 2013	Transmission of case 40 to the Committee
14 November 2013	Comprehensive report submitted to the Committee

Case 41, L'hadi Bendebka (listed as Abdelhadi Ben Debka) (Status: delisted)

Date	*Description*
12 March 2013	Transmission of case 41 to the Committee
14 October 2013	Comprehensive report submitted to the Committee
3 December 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
18 December 2013	Committee decision to delist

Case 42, Youcef Abbas (listed as Youcef Abbes) (Status: delisted)

Date	*Description*
4 March 2013	Transmission of case 42 to the Committee
2 October 2013	Comprehensive report submitted to the Committee
15 November 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
3 December 2013	Committee decision to delist

Case 43, Said Yousef AbouAziz (listed as Said Youssef Ali Abu Aziza) (Status: delisted)
Ombudsperson case became moot following the Committee's decision of 26 August 2013

Date	*Description*
27 March 2013	Transmission of case 43 to the Committee
26 August 2013	Committee decision to delist

Case 44, one individual (Status: dialogue phase)

Date	*Description*
2 May 2013	Transmission of case 44 to the Committee
4 February 2014	Deadline for completion of the dialogue phase

Case 45, one individual (Status: Committee phase)

Date	*Description*
6 May 2013	Transmission of case 45 to the Committee
9 December 2013	Comprehensive report submitted to the Committee

Case 46, one individual (Status: Committee phase)

Date	*Description*
10 May 2013	Transmission of case 46 to the Committee
30 December 2013	Comprehensive report submitted to the Committee

Case 47, Nabil Benatia (listed as Nabil ben Mohamed ben Ali ben Attia) (Status: delisted)

Date	*Description*
3 June 2013	Transmission of case 47 to the Committee
12 November 2013	Comprehensive report submitted to the Committee
13 December 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
31 December 2013	Committee decision to delist

Case 48, one individual (Status: dialogue phase)

Date	*Description*
17 June 2013	Transmission of case 48 to the Committee
20 March 2014	Deadline for completion of the dialogue phase

Case 49, one individual (Status: dialogue phase)

Date	*Description*
24 June 2013	Transmission of case 49 to the Committee
3 April 2014	Deadline for completion of the information-gathering phase

Case 50, one entity (Status: information-gathering phase)

Date	*Description*
5 September 2013	Transmission of case 50 to the Committee
28 February 2014	Deadline for completion of the information-gathering phase

Case 51, one individual (Status: information-gathering phase)

Date	*Description*
28 October 2013	Transmission of case 51 to the Committee
28 February 2014	Deadline for completion of the information-gathering phase

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Letter dated 3 February 2014 from the Permanent Representative of Lithuania to the United Nations addressed to the Secretary-General

I have the honour to inform you that, under the presidency of Lithuania, the Security Council is scheduled to hold an open debate on the subject "Protection of civilians in armed conflict". The debate will be held on Wednesday, 12 February 2014. In order to help steer the discussion on the subject, Lithuania has prepared the attached concept note (see annex).

I should be grateful if the present letter and the annex thereto could be circulated as a document of the Security Council.

(*Signed*) Raimonda **Murmokaitė**
Ambassador
Permanent Representative

14-22071 (E) 050214

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Annex to the letter dated 3 February 2014 from the Permanent Representative of Lithuania to the United Nations addressed to the Secretary-General

Concept note for the Security Council open debate to be held on 12 February 2014 on Protection of civilians in armed conflict: effective implementation of protection of civilians mandates in United Nations peacekeeping operations

Background

The year 2014 marks the fifteenth anniversary of the Security Council's engagement on the protection of civilians in armed conflict. In 1999, the Council adopted the first landmark resolution on the protection of civilians in armed conflict, resolution 1265 (1999) and, for the first time, it explicitly mandated a United Nations peacekeeping operation to protect civilians. Since then, the protection of civilians has become an integral part of United Nations peacekeeping operations. At present, nine peacekeeping operations have the explicit mandate to "protect civilians under imminent threat of physical violence" and to uphold other protection measures, accounting for more than 95 per cent of peacekeepers currently deployed. Furthermore, the Council has recognized that mandated protection activities must be given priority in decisions on the use of available capacity and resources.

However, the fact that civilians continue to bear the brunt of today's armed conflicts indicates the enduring need for the Security Council and Member States to further strengthen the protection of civilians. In his most recent report on the protection of civilians, issued on 22 November 2013 (S/2013/689), the Secretary-General noted that the current state of the protection of civilians left little room for optimism. Furthermore, as he submitted new recommendations on the protection of civilians, the Secretary-General also noted that many of his previous recommendations remained valid and emphasized the importance of translating existing normative commitments into actions on the ground.

While peacekeepers are among many other protection actors in the field, enhancing the implementation of protection mandates by peacekeeping operations (one of the five core challenges addressed in the Secretary-General's report) constitutes one of the most significant means at the Organization's disposal to protect civilians in armed conflict and in post-conflict situations. Despite increased attention and positive recent developments in this area, however, numerous challenges on the ground in respect of implementation remain, in particular challenges regarding a continued lack of clarity surrounding the concept and operationalization of the protection of civilians, internal and external coordination mechanisms, early warning and rapid response, support to the security forces of the host Government, troop capabilities and resourcing.

With this in mind, the Lithuanian presidency of the Security Council for the month of February will convene an open debate on the protection of civilians, with a specific focus on one of the five core protection challenges, namely, protecting civilians through United Nations peacekeeping and other relevant missions.

Developments

Over the past five years, significant steps have been taken to improve the overall effectiveness of United Nations peacekeeping missions, including their capacity to protect civilians. The Security Council adopted resolution 1894 (2009) on the protection of civilians in armed conflict, in which it called for mandated protection of civilians activities to be prioritized in decisions about the allocation of resources and capacity and requested the development of an operational concept, mission-wide planning and training on the protection of civilians. In addition to the numerous presidential statements of the Council, the periodic reports of the Secretary-General and the Aide-Memoire on the protection of civilians, the informal Expert Group on the Protection of Civilians was also established with the aim of sharing information relating to the protection of civilians among Council experts and strengthening the protection of civilians mandates. Resolution 2086 (2013) was the first thematic peacekeeping resolution in which the Council recognized the importance of the protection of civilians as a mandated task in multidimensional peacekeeping operations. In its resolution 2106 (2013), the Council reiterated the call for all predeployment and in-mission training of troop and police contributors to include training on sexual and gender-based violence and for the swift deployment of women protection advisers.

In its landmark resolution 2117 (2013) on small arms and light weapons, the Security Council recognized that the illicit transfer, destabilizing accumulation and misuse of small arms and light weapons fuel armed conflicts and have an impact on the protection of civilians and the implementation of peacekeeping mandates. The recently adopted Arms Trade Treaty is viewed as a vital tool in preventing the illicit flows of weapons that escalate armed conflicts and are often used against civilians, by helping States to establish strong export controls and mechanisms for preventing the diversion of those weapons.

In its annual reports issued from 2009 to 2012 (A/63/19, A/64/19, A/65/19 and A/66/19), the Special Committee on Peacekeeping Operations requested the Secretary-General to draw on lessons learned by providing an assessment of the adequacy of resources, training and concepts of operations in missions with protection of civilians mandates, as well as by recognizing the need for guidance, training, coordination and mission-specific protection of civilians strategies. The Secretariat has responded by developing an operational concept, a framework to support the development of mission-specific strategies, a resource and capability matrix, analysis of coordination mechanisms on the protection of civilians, operational- and tactical-level training materials to support peacekeepers, and by creating a protection of civilians coordination team at Headquarters.

Challenges and opportunities to be explored

Understanding protection of civilians, prioritization and planning

Notwithstanding important advances, peacekeeping operations continue to face myriad challenges in making protection a meaningful, consistent and systematic reality in their day-to-day work. The tasks of protecting civilians are not limited to military and police actions of providing physical protection. In its resolution 1894 (2009), the Security Council emphasized the need for a comprehensive approach to facilitate the implementation of protection mandates through promoting economic growth, good governance, democracy, the rule of law and respect for, and protection

of, human rights. At the same time, the protection mandates should remain clear, credible and achievable, and be based on a realistic assessment of threats. It should be borne in mind that while allowing better protection of civilians, such capacities as better intelligence, quick-reaction capabilities and critical enablers often have significant implications for resources and field support or may require a wider pool of troop- and police-contributing countries. Finally, the question of the circumstances in which a peacekeeping operation is authorized to use force, ranging from self-defence to peace enforcement and robust peacekeeping, and how it fits in the implementation of the operation's protection of civilians mandate, needs to be addressed.

In any specific operation, agreement on the protection needs, achievable goals, and on who has the necessary will and capacity to implement protection mandates is key to their successful implementation and to the credibility of the operation. Such common understanding should be shared as much as possible by all relevant stakeholders, in particular the Security Council, the Secretariat and the troop- and police-contributing countries, and should be clearly communicated to the mission leadership. Moreover, the disparity between mandated tasks and allocated resources and capabilities, as well as the information gap between the field and Headquarters — including the Council — are important challenges that need to be tackled.

There also remains a lack of pre-mandate planning and assessments on the protection of civilians. Threats to civilians must be considered at the earliest phase of planning by the Secretariat and the Security Council. The Council could request information on civilian threats and vulnerabilities, which would enable mandates to be shaped accurately with an understanding of the resources required to carry them out. The Council could also monitor the implementation and impact of mandates on the ground more closely, and support missions facing challenges in protecting civilians.

Leadership, strategy and coordination

There are also challenges in how the various parts of the mission work together on protection of civilians, and the importance of creating effective mechanisms for doing so. The engagement and coordination of mission leadership in implementing the protection of civilians are critical to its success, and involve articulating a clear vision for protecting civilians for the mission-specific context. At a minimum, they should include an articulation by a mission's senior leadership of its understanding of the protection of civilians and the detailed roles and responsibilities within the mission in undertaking such activities, dealing with both day-to-day, persistent low-level threats and potential crises.

The effective implementation of protection tasks involves a broad range of actors. It requires close consultations, including between the Security Council, the Secretariat, and the troop- and police-contributing countries, prior to the establishment and throughout the life cycle of peacekeeping missions. Missions must engage with State authorities and local communities in order to better understand and respond to the threats they face. The views of other actors on the ground, such as United Nations system organizations, humanitarian actors and human rights professionals, should also be taken into account. It is equally important that a mission's engagement with United Nations and other humanitarian

actors does not undermine the independence and neutrality of such actors and the perception thereof.

The United Nations human rights due diligence policy is an important tool in ensuring that national forces that benefit from United Nations support adhere to international humanitarian and human rights law and that Council members are aware of the implementation of the policy, with a view to gauging its impact on the protection of civilians in the various countries. The "Rights up front" action plan is an important framework for the United Nations, including for peacekeeping and other missions, to promote respect for human rights and humanitarian law and accountability for violations thereof.

Capacity and training

Effective protection is reliant on mobility and access to adequate equipment and other resources. However, both in the field and at Headquarters, peacekeepers continue to face challenges of capacity. In order to implement protection strategies, operations must be designed and resourced to support their objectives. Increased predeployment and in-mission training for all levels of personnel, from leadership to contingent commanders and the whole body of peacekeepers and civilian staff, also remains vitally important, including on sexual and gender-based violence.

Questions to consider

Member States are encouraged to consider some of the following points in their statements:

- How to improve the common understanding regarding protection mandates, and relevant experiences from current peacekeeping operations; what more can be done to ensure that mission leadership is aware of the Council's prioritization of the protection of civilians
- Issues of policy, planning and the preparedness gap regarding the protection of civilians; the threats and challenges regarding mandate implementation on the ground; how can the experiences and challenges of the troop- and police-contributing countries in implementing the protection of civilians be better incorporated into developing future strategies and guidance; how to ensure that all peacekeepers are being trained using the same standards on the protection of civilians
- Coordination efforts, situational awareness, early warning and rapid response required to ensure mandate implementation; support to the security forces of the host Government; interaction with humanitarian and other actors on the ground
- The continuing engagement of the Security Council post adoption in the progress and challenges of the implementation of protection of civilians mandates
- Best practices regarding the implementation of protection of civilians mandates; what works and why, and how to improve the sharing of best practices among missions
- Ensuring adequate resources and financing to support the implementation of the protection of civilians mandates.

As this will be the first open debate since the submission of the most recent report of the Secretary-General on the protection of civilians in armed conflict (S/2013/689), the debate will provide an important opportunity for members of the Security Council and the United Nations membership to also reflect on the other core challenges to the protection of civilians as well as the recommendations contained in the report of the Secretary-General.

Briefers and outcome

The Under-Secretary-General for Humanitarian Affairs, Valerie Amos, representatives from the Department of Peacekeeping Operations, the Office of the United Nations High Commissioner for Human Rights and the International Committee of the Red Cross are expected to brief. The meeting will take place on Wednesday, 12 February 2014, and participation will be open to non-members of the Security Council.

The Lithuanian presidency of the Security Council will propose the adoption of a presidential statement that will contain an updated aide-memoire on the protection of civilians in armed conflict, compiled by the Office for the Coordination of Humanitarian Affairs. The aide-memoire is based on a compendium of the Council's agreed language. It identifies key concerns pertaining to the protection of civilians and illustrates how the Council has addressed them in relevant resolutions and presidential statements. The aide-memoire was most recently updated in 2010. The Office has recently updated the aide-memoire, hence the wish to have a short presidential statement that recognizes the fact.

United Nations S/2014/75

Security Council

Distr.: General
3 February 2014

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Letter dated 3 February 2014 from the Permanent Representative of Lithuania to the United Nations addressed to the Secretary-General

I have the honour to inform you that, under the presidency of Lithuania, the Security Council is scheduled to hold an open debate on the promotion and strengthening of the rule of law in the maintenance of international peace and security. The debate will be held on Wednesday, 19 February 2014. In order to help steer the discussion on the subject, Lithuania has prepared a concept note (see annex).

I should be grateful if the present letter and the annex thereto could be circulated as a document of the Security Council.

(*Signed*) Raimonda **Murmokaitė**
Ambassador
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Annex to the letter dated 3 February 2014 from the Permanent Representative of Lithuania to the United Nations addressed to the Secretary-General

The promotion and strengthening of the rule of law in the maintenance of international peace and security

Concept note

Background

Many countries that have experienced conflicts in the past face repeated cycles of violence, displacement, pervasive humanitarian crises and instability. Weak rule of law institutions lead to diminishing levels of citizen security and economic opportunity and often become a substantial contributing factor to a conflict and/or impediment to its sustainable resolution. Building responsive rule of law institutions is therefore an effective means of breaking those negative cycles. Such institutions anchor sustainable peace by ensuring accountability and managing disputes within pacific processes, restoring trust and social cohesion on the basis of equal rights, and building confidence in the ability of a country to deliver justice to all without discrimination. As such, assisting the efforts of host countries to strengthen their rule of law institutions is an important element of the peacekeeping and peacebuilding work of the United Nations.

Developments

The Security Council has already identified the strengthening of rule of law institutions as a key part of the mandates it designates for the maintenance of international peace and security. Such support is currently included in the mandates of 18 out of 28 Security Council missions and takes on different forms and contexts, including rebuilding police and law enforcement services, for example in the United Nations Multidimensional Integrated Stabilization Mission in Mali, the United Nations Stabilization Mission in Haiti (MINUSTAH), the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), the United Nations Mission in Liberia (UNMIL) and the United Nations Operation in Côte d'Ivoire (UNOCI); ensuring humane and secure prison facilities and deployment of nations' mobile court systems (UNOCI); fighting impunity, particularly through the establishment of transitional justice systems (United Nations Office in Burundi); strengthening legal frameworks by drafting new criminal and criminal procedure codes and legislation on money-laundering and terrorism (MINUSTAH); reforming areas of civil and administrative law that directly affect key drivers of conflict, including property and land disputes (African Union-United Nations Hybrid Operation in Darfur) and the administration of natural resources (UNMIL); addressing sexual violence in conflicts (MONUSCO); and combating corruption (United Nations Support Mission in Libya).

Linkages between the rule of law and the maintenance of peace and security have been further highlighted in numerous thematic documents. Notably, in the presidential statement of 19 January 2012 (S/PRST/2012/1) adopted at the most recent Security Council thematic debate on the rule of law, the Council emphasized "the importance of the rule of law as one of the key elements of conflict prevention, peacekeeping, conflict resolution and peacebuilding". Similarly, in the Declaration

of the high-level meeting of the General Assembly on the rule of law at the national and international levels (General Assembly resolution 67/1), Heads of State and Government stressed that "justice, including transitional justice, is a fundamental building block of sustainable peace in countries in conflict and post-conflict situations" and "the importance of supporting national civilian capacity development and institution-building in the aftermath of conflict, including through peacekeeping operations in accordance with their mandates, with a view to delivering more effective civilian capacities".

Not less importantly, the recognition of the role of rule of law support in post-conflict stabilization was followed by an increased emphasis on the need to ensure greater system-wide coordination and coherence, in order to improve its delivery. While addressing that demand, the Secretary-General undertook to realign the institutional response of the United Nations to the challenges it faces. A "Delivering as one" model was prioritized by specifically tasking the most senior in-country United Nations official to be accountable for guiding and overseeing rule of law strategies, for supporting their implementation by resolving political obstacles and for coordinating United Nations country support. To assist those officials with the new responsibilities, the Department of Peacekeeping Operations and the United Nations Development Programme have been made jointly responsible for establishing a global focal point for the police, justice and corrections areas of the rule of law in post-conflict and other crisis situations. The global focal point is designed as a "hub" through which field leaders can access support, in terms of people, knowledge, funding and technical and operational advice, to establish and implement rule of law strategies.

As part of the same objective, the Secretary-General, in his report on measuring the effectiveness of the support provided by the United Nations system for the promotion of the rule of law in conflict and post-conflict situations (S/2013/341), examined ways to measure the impact of the United Nations. The Security Council and the States Members of the United Nations have not yet had an opportunity to discuss the report.

Challenges and opportunities to be explored

The Lithuanian presidency believes that the time is opportune to follow up on these developments and consider further practical approaches that could help to improve the overall impact of rule of law mandates in preventing the recurrence of conflicts and building sustainable peace.

Accordingly, the Lithuanian presidency proposes that the debate focus on how rule of law mandates can be made more effective by identifying and sequencing the most appropriate activities to strengthen the rule of law and ensuring that foundations are laid for the continuity of rule of law support beyond those mandates. The debate could review key findings of the above-mentioned report of the Secretary-General and look into other tools that may assist the Security Council in responding to future requests for assistance in strengthening the rule of law. In particular, the participants might wish to consider one or several of the elements below.

Design of mandates: clarity, credibility and achievability

Rule of law mandates are often worded in an open-ended or thematic manner, while some are made conditional upon the realizations of other political goals or contain practical guidance and even suggestions on specific institutional design. The degree of specificity of rule of law mandates, however, does not appear to be directly linked to the importance placed upon the issue in the particular country setting. Focusing on the most appropriate rule of law activities and authorizing operations or missions to fully and visibly engage on them might be essential to increasing their effectiveness. That would include activities that support host-country authorities to directly address the root causes of conflict, advance the peace process and enhance stability in the post-conflict environment. At the same time, even with clear and targeted rule of law mandates, their implementation ultimately remains a concrete exercise at the field level and must be refined to local circumstances.

An additional challenge in the delivery of justice and security services is that, generally, they are an outcome of a system composed of numerous actors, institutions and processes that must all perform their specific roles and work together with other links in the justice chain. Often, in the peacekeeping setting, police reforms outpace justice and corrections reforms, undermining the overall investment in the entire sector. A holistic approach could therefore help to balance support to each institution, enable national authorities to lead sectoral reform and coordinate international support to national priorities.

Questions to consider: How could United Nations support to the rule of law be strengthened by designing clear and credible mandates (indicating their importance in all relevant Security Council resolutions; mandating the use of particular rule of law activities and support to particular areas; developing a specific list of potential rule of law activities that could be referred to when designing mandates)? How could such mandates support the strengthened role of senior United Nations in-country leadership in coordinating and overseeing rule of law activities (the importance of robust implementation of rule of law mandates and its establishment as a core priority in mission planning; making use of their comparative advantages in line with national priorities)? How to ensure that rule of law support is provided in a holistic manner and to all relevant institutions (through sector-wide approaches; specifying, where appropriate, the ceiling number of uniformed Government-provided officers)?

Managing transitions: timing, sequencing and continuity of support

Targeted efforts to address key rule of law gaps that underpin a conflict must begin early, in the immediate aftermath of a conflict. Some activities, such as supporting the re-establishment of rule of law institutions, redeploying personnel, supporting mobile courts, improving basic infrastructure and some key legislation and providing mentoring, training and capacity-building, need to start early before poor practices become entrenched. Similarly, addressing systemic human rights violations may require immediate efforts to protect vulnerable communities. At the same time, addressing the broader issues that underpin a conflict and supporting deeper rule of law reforms often requires sustained long-term engagement. Consequently, fulfilling rule of law mandates requires the correct sequencing of both activities and priorities.

Moreover, in most countries in which they operate, peacekeeping operations play a central role in supporting the provision of justice and security services. Such operations are the largest multilateral provider of experts in the police, justice and corrections areas. Accordingly, operation withdrawal or downsizing can result in gaps in the delivery of essential services. To safeguard peacekeeping and peacebuilding gains, there is a need for peacekeeping operations, as well as other United Nations entities, regional organizations and bilateral partners to work with host-country authorities and to carefully plan for the transfer of tasks.

Questions to consider: How should the issue of the timing and sequencing of rule of law support activities be addressed (long-term commitment; the need to put in place comprehensive implementation plans from the inception of peacekeeping operations/special political missions)? How could peacekeeping operations/special political missions be better evaluated on their treatment of the rule of law (relevant monitoring and evaluation mechanisms; links between withdrawal or downsizing and progress made in the area of the rule of law)? How to ensure that the transition management process is based upon the actual capacities and funded initiatives of longer-term peacebuilding and development actors, so that they can assume key tasks previously undertaken by peacekeeping operations/special political missions (United Nations peacebuilding machinery; donor support to those initiatives well in advance of a transition)?

Other prerequisites for success: national ownership, political engagement, coordination, and alignment of efforts and resources

In order to be effective, efforts to strengthen the rule of law should be nationally owned, led and implemented and tailored to the culture and traditions of the host country. This might also require effective broad-scale consultations with all relevant national actors and public involvement, which could increase the likelihood of the initiatives being appropriate and sustainable.

Often, to drive real changes on the ground, strengthening rule of law institutions also requires both technical expertise and engagement in the broader political reform process. Senior mission leadership, other concerned actors and the Security Council itself have a substantial role to play in leveraging political commitment to reform, where such commitment is lacking.

Regional organizations, bilateral actors and United Nations entities can actively support peacekeeping operations and special political missions to implement the rule of law aspects of their mandates. Effective coordination among them helps, inter alia, to avoid a situation where relatively simple or low-cost interventions, so-called "quick wins", are duplicated, while crucial yet more complicated or costly institutional strengthening needs go unaddressed.

Addressing needs in the area of the rule of law also requires sustainable and predictable resources, in terms of both expertise and programmatic support. It is thus critical that operations and missions have at their disposal the support and resources required to fulfil their rule of law mandates. In this regard, it remains a particular challenge to quickly identify experts, in particular from developing countries, who have the necessary skill sets, are trained to United Nations standards and are ready to be deployed to operations.

Questions to consider: How could mandates support host-country aspirations to strengthen rule of law institutions (development of rule of law compacts with host-country populations and the international community)? How could the Security Council increase its political engagement with host countries (country-specific debates, briefings by key host-country stakeholders; visits to prisons, courts and law enforcement facilities when visiting host countries)? How could coordination between United Nations and non-United Nations international assistance providers be strengthened (nationally led or United Nations-facilitated coordination forums; the use of multi-partner trust funds and other similar financing mechanism)? What can be done to ensure better alignment of efforts and resources (adequate access of resources for rule of law programming; development of rosters of experts in a range of rule of law specialty areas)?

Format and outcome

The Secretary-General is expected to present a briefing at a meeting to be held on Wednesday, 19 February 2014, chaired by the Minister for Foreign Affairs of the Republic of Lithuania, that will be open to the participation of non-Security Council members.

The Lithuanian presidency will propose a presidential statement for adoption.

United Nations S/2014/76

Security Council

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4 February 2014

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Letter dated 3 February 2014 from the Chargé d'affaires a.i. of the Permanent Mission of Germany to the United Nations addressed to the President of the Security Council

Within the framework of the "Wiesbaden Process", the Government of Germany hosted a second industry outreach conference on Security Council resolution 1540 (2004) in Wiesbaden, Germany, on 3 and 4 December 2013, focusing on biosecurity. The international conference was organized in cooperation with the United Nations Office for Disarmament Affairs and the European Commission's European Union-Outreach in Export Control of Dual-Use Items programme, the latter being represented by the Federal Office of Economics and Export Control.

In its resolution 1977 (2011), the Security Council explicitly encouraged the 1540 Committee to draw also on relevant expertise, including civil society and the private sector (para. 12). In this context, industry is an important stakeholder and partner in combating the proliferation of weapons of mass destruction to non-State actors.

The conference provided a lively and substantive exchange on biosecurity issues related to the implementation of non-proliferation policies. The 70 participants benefited from an enhanced understanding of the motives and objectives of other actors in the field. While industry representatives gained insight into the motivation behind and the provisions of Security Council resolution 1540 (2004), its implementation and the work of the 1540 Security Council Committee, participants from Government, international organizations and academia gained a better understanding of the challenges in this sector as well as industry practices and initiatives.

The outcome of these valuable debates is summarized in the report which is attached to the present letter and which was drafted under our responsibility (see annex). We would be grateful if you could circulate the present letter and its annex among the members of the Security Council and issue them as a document of the Council.

(*Signed*) Heiko **Thoms**

14-22435 (E) 060214

Please recycle

Annex to the letter dated 3 February 2014 from the Chargé d'affaires a.i. of the Permanent Mission of Germany to the United Nations addressed to the President of the Security Council

Risks, challenges and responses: Industry's effective practices in responding to biosecurity risks

A Conference in Support of Implementing Security Council resolution 1540 (2004)

Wiesbaden, Germany

3 and 4 December 2013

Industry can be an important stakeholder and partner in combating the proliferation of weapons of mass destruction to non-State actors, as it is in many cases the direct addressee in implementing Security Council resolution 1540 (2004). Therefore, in its resolution 1977 (2011), the Security Council explicitly encouraged the 1540 Committee to draw also on relevant expertise, including civil society and the private sector (para. 12).

The Government of Germany hosted the first international industry outreach conference on resolution 1540 (2004) in April 2012 in the city of Wiesbaden. While the 2012 Wiesbaden Conference was aimed at strengthening the partnership between government and industry in general, the 2013 conference focused on aspects of 1540 implementation in the area of biosecurity. The conference was again organized in cooperation with the United Nations Office for Disarmament Affairs and the European Commission's European Union-Outreach in Export Control of Dual-Use Items programme, the latter being represented by the Federal Office of Economics and Export Control.

The approximately 70 participants included representatives of international and national industry associations, global enterprises, regional biosafety organizations, Governments and civil society. The 1540 Committee was represented by two Committee Experts and a statement was delivered on behalf of the 1540 Committee Chair, Ambassador Oh Joon.

The timeliness of this two-day conference was reflected in lively discussions throughout the event, spanning a range of issues related to combating biological weapons such as non-proliferation, counter-proliferation and consequence management as well as other multi-stakeholder initiatives related to biological risk management. Various presentations covered a wide area of topics such as an overview of Security Council resolution 1540 (2004) obligations and the role of the industry in countering biological risks and threats (i.e., risk and threat awareness; prevention and protection; surveillance and detection; response and recovery); the impact of (and industry's contribution to) the implementation of national controls on biological weapons-related materials; the convergence of biology and chemistry and its implications; chemical and biological non-proliferation regimes; responsible conduct of dual-use research of concern; the use of open-source synthetic biology and export control regulations in the do-it-yourself biology community; personnel reliability measures; corporate, institutional or industry-wide codes of conduct; corporate social responsibility/responsible care as well as self-regulation.

The conference provided a substantive exchange on biosecurity issues related to the implementation of non-proliferation policies. While industry representatives gained insight into the motivation behind and the provisions of resolution 1540 (2004), its implementation and the work of the 1540 Committee, representatives from Government, international organizations and academia gained a better understanding of the challenges in this sector as well as industry's practices and initiatives.

This in turn resulted in active debate among industry, regional biosafety associations, international organizations and civil society representatives on security-related aspects of the life sciences and biotechnology. Several areas were identified as requiring further work and synergy of efforts to boost the implementation of resolution 1540 (2004) in the area of biosecurity:

(a) The complexity created by differences in regulatory safety and security approaches and a high number of overlapping regulations can present a major burden for biological research and development as well as vaccine manufacturing, not only in developed countries but also in developing countries where this complexity may be perceived as delaying economic development and interfering with the conduct of legitimate trade;

(b) Limited safety awareness, especially in biological research and development communities; therefore, there is a need to improve safety awareness among institutions and persons in order to lay the ground for the development and implementation of State regulations in a bottom-up effect;

(c) The creation of codes of conduct to establish security awareness as an effective industrial practice, in particular in areas that are beyond governmental regulation;

(d) Increased risk of bypassing existing international transportation safety and security regulations by changing, intentionally or unintentionally, the classification of biological materials of concern;

(e) Discrepancies in regulatory genetic engineering frameworks for do-it-yourself biology communities between Europe and other regions of the world;

(f) The need for continuous safety and security risk assessment and oversight of dual-use research of concern experiments;

(g) The lack of clarity and differing interpretation of controls of (intangible) know-how transfer in publishing research results, especially inconsistent application of export control exceptions when publishing fundamental (basic or applied) research;

(h) The improvement of the synergy and coordination among Security Council resolution 1540 (2004), the Biological Weapons Convention, the World Health Organization (WHO) International Health Regulations and the World Organization for Animal Health (OIE) Performance of Veterinary Services, in their national implementation and concerted action on capacity-building/assistance to States; this could also include a harmonization of definitions and concepts used by different stakeholders in this field;

(i) The facilitation of cooperation between industry and civil society with law enforcement at both the national and the international levels (for example,

between the Australia Group and the International Criminal Police Organization (INTERPOL));

(j) While compliance with national and international regulations is dealt with more effectively by large corporations, small enterprises may benefit from closer interaction with professional (biosafety) and industrial associations; biosafety organizations could use more advocacy for their work by States or international organizations;

(k) Biorisk management in Africa may be strengthened by improving social mobilization and awareness-raising/education;

(l) International organizations (including the 1540 Committee) should create better opportunities for regional cooperation and sharing effective practices in public-private partnerships, including civil society;

(m) The 1540 Committee could improve the international biorisk management framework by compiling examples of legislation, regulations and voluntary initiatives (i.e., codes of conduct and biosafety/biosecurity guidance from international organizations) and listing them on its website;

(n) There is a need to move beyond advocacy and awareness-raising towards effective (sustainable, cost-effective, integrated with other non-proliferation and health policies) implementation of the biosecurity areas of resolution 1540 (2004), in particular by developing a government-wide biosafety/biosecurity national framework with input from civil society.

Discussions reflected the sometimes conflicting interests among government, which seeks to maintain high levels of security; industry, which requires consistent rules to operate; and science, which demands as much freedom as possible.

In developed countries, biosecurity and biosafety are usually densely regulated fields, supplemented by self-imposed codes of conduct, which industry perceives as increasing competitiveness in the market. In developing countries and emerging economies, other conditions prevail with regard to political prioritization, security awareness, resources and competitiveness in the field of biosecurity. This is why the implementation of 1540 measures may have lower priority than more pressing issues relating to economic development. In this context, discussions highlighted the potential role of civil society in support of the implementation of resolution 1540 (2004) at the international, regional and national levels. At the same time, it was repeatedly stressed that any control or regulatory measures concerning biological weapons-related materials must be designed to be risk-based and proportionate so as not to impede legitimate trade and the peaceful and beneficial conduct of life sciences research and development activities.

In fact, industry is very much looking for clear and simple rules, guidance, as well as a level playing field. The diverse and very engaged audience at this conference also highlighted the potential role of a comprehensive societal approach in countering biological threats, and their collective and individual efforts towards mitigating the risk (inside and outside the laboratory) posed by science and technology, biological materials, and research-related information, either due to misuse for hostile purposes or the accidental exposure of individuals and the environment to hazardous biological agents.

The comprehensive implementation of resolution 1540 (2004) and the involvement of all relevant stakeholders — explicitly including industry — remains an important concern of the Government of Germany, which is why this "Wiesbaden Process" was initiated in cooperation with the United Nations Office for Disarmament Affairs. The potential for cooperation with industry is to be enhanced further. Therefore, the Government of Germany is prepared to continue this process and host or co-host further conferences. These could take place abroad and in cooperation with other States and could have a thematic or regional focus.